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Legislative Audit Division

State of Montana

Report to the Legislature

December 1995

Performance Audit Report

Child Care Certification & Monitoring

Family Services Program
Department of Public Health and Human Services

This report contains recommendations for improving program operations. Recommendations include:

- Changing the process for implementing policies and procedures.
- Evaluating current regulations to eliminate unnecessary requirements.
- Defining the authority of the central office and the regions.
- Developing a plan for regular, on-going communication among staff.

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Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, statistics, economics, computer science, communications, and engineering.

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Montana Legislative Branch

Legislative Audit Division
Scott A. Seacat, Legislative Auditor

December 1995

The Legislative Audit Committee
of the Montana State Legislature:

We conducted a performance audit of the child care certification and monitoring processes at the Department of Public Health and Human Services. This report contains recommendations for improving activities related to licensing/registering and monitoring child care facilities in Montana.

We wish to express our appreciation to Family Services Program staff for their cooperation and assistance.

Respectfully submitted,

Scott A. Seacat
Legislative Auditor

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Legislative Audit Division

Performance Audit

Child Care Certification & Monitoring

Family Services Program
Department of Public Health and Human Services

Members of the audit staff involved in this audit were Susan Jensen, Jim Nelson, and Kent Rice.

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Appointed and Administrative Officials

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	Hank Hudson, Administrator, Family Services Program Division*
	Shirley Brown, Administrator, Program Management
	Richard Kerstein, Coordinator, Field Services
Regions	Shirley V. Tiernan, Eastern Regional Administrator
	Dave Bennetts, Northcentral Regional Administrator
	Betty Petek, Southcentral Regional Administrator
	Kathy Ostrander, Southwest Regional Administrator
	B. Warren Wright, Western Regional Administrator

* Served as director of the Department of Family Services until June 30, 1995.

Report Summary

Introduction

A performance audit of child care at the Department of Family Services (DFS) was requested by the Legislative Audit Committee. This audit concentrated on the department's certifying and monitoring of child care providers and facilities.

Chapter 546, Laws of 1995, created a new Department of Public Health and Human Services (PHHS). All child care functions within DFS were transferred to PHHS and DFS was abolished.

Background

Two units within the Family Services Program at PHHS have primary child care responsibilities: 1) Program Management, and 2) Regional Administration. The Program Management Unit, located in Helena, provides program management, administrative services, technical assistance, and training for regional personnel.

The Regional Administration Unit consists of five regions throughout Montana. Regional responsibilities include administration, management, and supervision necessary to ensure program requirements are met. Family resource specialists (FRS), FRS supervisors, regional administrators, and administrative support personnel are responsible for certifying and monitoring child care providers and facilities.

Licensed centers are child care providers which care for 13 or more children. Registered providers are either family or group child care homes. Family homes care for 3 to 6 children, and group homes care for 7 to 12 children. Child/staff ratios for licensed centers are dependant on the ages of the children. The maximum child/staff ratio for registered providers is six-to-one.

The licensing and registering processes begin with receipt of an application to provide child care services. The application is reviewed to ensure all required information is submitted. A criminal background check and child protective services check are completed on the applicant. An inspection of the facility and interviews with personnel are completed at child care centers. Laws do not require the department to inspect family and group homes applying for registration. After completing the application

review and inspection where applicable, the FRS makes a decision on the application.

Each license/registration is valid for one year. Laws require the department to inspect child care facilities to ensure minimum standards are being met. The department must make annual unannounced inspections of licensed facilities. Law requires the department to inspect at least 20 percent of all registered facilities in each region annually.

Child Care Regulation in Montana

Legislative Intent Within the Montana Child Care Act is Being Met

There are five areas outlined in the Montana Child Care Act relating to intent. The Act also lists statutory responsibilities for the department. Our audit work determined the department is conducting some activity for each of these responsibilities. By accomplishing these activities, the department is meeting the intent of the Act.

Only a Minimum Level of Protection Provided

Language within the purpose section of the Act may create higher expectations than regulations actually provide. Current child care laws, rules, and policies provide only a minimum level of protection to ensure the safety and well-being of children in care. Most requirements in the Act relate to safety. Quality of child care is not defined in statute nor is quality measured by department personnel. Therefore, the state's certifying and monitoring processes are not intended to ensure the safety and well-being of children, but are intended to provide a minimum level of regulation.

Statutes do not require any state agency to search for unregulated child care facilities. The state must rely on the general public to identify and report facilities providing child care services without a license or registration. Department staff said they believe there are numerous unregulated child care facilities operating throughout Montana.

Conclusion: Responsibility for Children not Removed from Parents

A parent's responsibility for protection is not removed when children are in child care regulated by the state. Regulatory activities conducted by the department do not supplant parental care. It is up to the parents of children in care to determine whether a facility will provide all needs of their children.

Although the department is in compliance with the overall language within statute, improvements in program operations could be made. Audit findings relate to specific program weaknesses which do not significantly affect the overall protection of children in child care.

Managing the Program

A program should be designed to ensure everyone knows who is responsible for what tasks, how these tasks are performed, and how to analyze program results. It should minimize confusion and clarify assignments. We believe improvements could be made by the department in managing the child care program.

Outdated Policies and Procedures

Policies and procedures for child care certification and monitoring are out-of-date. An updated draft version of these policies and procedures was circulated for comment in 1992; however, this draft was not yet finalized at the time of completion of our audit.

The process used by the department for establishing and changing policies and procedures has been untimely. Lack of established time frames for reaching consensus promotes inefficiencies. There is no incentive for efficient review if staff are not directed by time frames. Also, if consensus cannot be reached, no one takes responsibility for resolving the situation by making a final decision.

We believe the department should change it's process for updating policies and procedures. The department should establish a process for reaching consensus on proposed changes. A person with authority for resolution must be designated to resolve issues when consensus cannot be achieved. Management should also separate proposed changes into smaller, more workable sections. Implementation should be completed immediately after approval of each section.

Use of Outdated Forms and Publications is Occurring

Not all family resource specialists use up-to-date checklists to document provider compliance with regulations. Also, some specialists distribute out-dated fire safety rules and child care rules and publications to providers and parents.

Because regional staff are not using current checklists, not all providers are measured by the same standards. Also, if self-certifying providers are not fully informed of current requirements, noncompliance could be disputed. It is contradictory to expect compliance when out-dated materials are distributed.

Management should implement a process for periodically updating forms and publications which is conducive to change. Management should also consider the need for certain publications. Finally, management needs to implement a process for ensuring regional personnel use current forms and publications.

Current Regulations May Contain Excessive Requirements

Our audit work indicates limited documentation of providers compliance with regulations exists within department files. Regional staff make individual decisions as to how often a procedure is necessary and what type of documentation is needed. The result is inconsistency in completion of requirements, including verification procedures.

Lack of compliance with requirements did not reveal significant negative effects in child care services. Missing documentation did not appear to correlate with complaints received about child care facilities.

Program personnel have not reviewed requirements to determine whether each procedure and all paperwork is necessary for protecting children in child care. There is no process in place to periodically review statute, rule, and policy to ensure what is required is essential. We believe some of the current requirements may not be necessary or cost effective. Management should evaluate regulations and procedures to eliminate unnecessary requirements.

Functional Authority of Family Services Staff not Clearly Defined

It is imperative management define the exact nature of functional authority for child care and spell out the delegation of this authority to staff. Centralized authority over policies and procedures is needed to ensure consistency in major practices at the regional level. Functional authority should at the same time be carefully restricted so regional administrators can still effectively direct operations.

The program operates as a partially decentralized organization. The extent of the functional authority of the central office is not clearly defined, thus regional staff do not understand their overall authority. Staff are not aware of who is ultimately responsible for providing necessary direction. The unclear functional authority is creating confusion and inconsistencies. Individual responsibility and authority needs to be defined and explained to all staff.

Family Services Should Compile Relevant Management Information

Management does not compile information to evaluate program needs or the success and effectiveness of child care operations. A limited amount of management information is compiled, yet this information may not be properly utilized. Management information is essential to a decision-making network and helps maintain effective control.

Management has not developed a process to compile relevant child care information. Best management practices indicate a need for management information in order to track program success and effectiveness. If department administrators want to properly manage programs, they need relevant information to analyze efficiency and effectiveness.

Planned Communication Between Central Office and Regional Staff is Necessary

Communication is a critical element of sufficient control. Department interaction has been disjointed. There are no planned, periodic methods of communication. A process for collectively informing personnel of on-going issues provides an effective method of ensuring consistency.

Interactions between child care staff have traditionally been tied to some type of specific training. Management said the training budget is restricted, potentially limiting future staff interactions. Due to decentralization, staff meetings can be difficult to arrange. We believe the value of staff meetings outweighs potential difficulties. Program managers should develop a plan for regular, on-going communication among staff members.

Compliance

Audit standards require reporting of noncompliance issues related to objectives. We identified several instances of noncompliance with statutes and rule.

Most Inspections of Child Care Centers are Announced

Most annual inspections of child care centers are announced. Section 52-2-733(4), MCA, requires the department to make annual unannounced inspections of centers. National standards recommend at least one annual unannounced inspection to each center. In most locations, family resource specialists said they pre-arrange child care center inspections in order to avoid "missing" the directors.

Unannounced inspections of centers are required by law and rule. The child care program is a regulatory program, so personnel need an enforcement philosophy. We recommend management adjust its inspection enforcement emphasis to adhere to law, or change the law and rule to reflect its determination that unannounced inspections are not necessary.

Annual 20 percent Inspections of Family and Group Homes are not Completed in Each Region

Program personnel did not complete inspections of at least 20 percent of family and group homes in each region during calendar years 1993 and 1994. Section 52-2-733(3), MCA, and section 11.14.109(3), ARM, require the department to inspect at least 20 percent of all registered homes in each region annually.

Inspections of registered homes were completed during 1993 and 1994, but the number of inspections completed per region did not comply with regulations. Central office staff select a 20 percent sample of registered homes based on state-wide numbers; however, this process does not ensure compliance with regulations.

Management has two options: 1) change regulations to allow a state-wide selection; or 2) change the current process and select samples for each region.

Provisional Certificates are Exceeding Required Time Frames

Of the files reviewed with provisional certificates, 20 percent had certificates which exceeded time frames within statute and rule. Section 52-2-724, MCA, states provisional certificates can be issued for a period of time not to exceed six months. Section 11.14.105(4), ARM, further specifies a provisional certificate may be issued for a period of up to three months, with an option for a second three month certificate to be issued in special circumstances.

There is confusion at the regional level in understanding provisional certificate requirements. We recommend program management communicate to staff current standards regarding provisional certificates.

Chapter I - Introduction

Introduction

A performance audit of the child care function at the Department of Family Services (DFS) was requested by the Legislative Audit Committee. Previous performance audits conducted at DFS, #89P-29, Department of Family Services Child Protective Services Program, and #93SP-03, Foster Care Facility Licensing and Other Related Issues, identified licensing of child care providers as an issue for further study. This performance audit concentrated on the department's certifying and monitoring of child care providers and facilities.

Chapter 546, Laws of 1995, reorganized Montana's social service agencies and created a new Department of Public Health and Human Services (PHHS). DFS was included in this reorganization. All functions within DFS were transferred to PHHS and DFS was abolished. This act went into effect July 1, 1995. Passage of Chapter 546 did not affect our audit work, results, or recommendations. Our recommendations for improvement relate to functions still mandated by law. References to DFS are still included within this audit report.

Audit Objectives

In the course of performance audit work, we addressed the following questions to satisfy our audit objectives:

1. Is legislative intent as outlined in the Montana Child Care Act being met?
2. Do the state's certifying and monitoring processes ensure the safety and well-being of children in child care?
3. Are DFS personnel certifying and monitoring consistently?
4. Do DFS child care activities ensure compliance with laws and rules?
5. Do FTE levels enable DFS to meet statutory requirements?
6. Does the department evaluate the effectiveness of the child care program?

Audit Scope and Methodology

This audit was conducted in accordance with government auditing standards for performance audits. Preliminary audit work examined child care information from previous performance and financial-compliance audits, Legislative Audit Division (LAD) hot-line calls, and other sources. We interviewed department central office staff and reviewed laws, rules, policies, and procedures. We talked to regional staff; reviewed child care files; and observed facility inspections by DFS personnel. We visited a local Resource and Referral agency and interviewed the director. Based on the preliminary review and work conducted as part of the regularly scheduled LAD financial-compliance audit, we limited our scope to child care certification and monitoring.

We examined DFS compliance with laws, rules, and policy in relation to certification of child care providers and monitoring of facilities. Our audit included a review of laws and rules unique to child care and a comparison of regulations to procedures followed. We reviewed:

-- The certification process including issuance and renewal of licenses/registration certificates and investigation of complaints.

-- The process used to identify facilities operating without a license or registration certificate.

-- Inspection and monitoring procedures used to help ensure compliance by child care providers.

We interviewed regional administrators, family resource specialist supervisors, and family resource specialists in four of the department's five regions to determine roles in child care activities. When possible, we accompanied regional personnel on inspections of child care facilities to observe procedures used to verify compliance with standards. Review of pertinent child care files helped us determine compliance with current regulations. A comparison of personnel activities and provider file information from different locations was made to determine consistency between regions.

Contacts were made with personnel in the Department of Justice and the Department of Health and Environmental Sciences to

determine what requirements these agencies have regarding child care certification and monitoring. DFS child care files were examined to assess compliance with these agencies' requirements. Comments were solicited from members of the Governor's Advisory Council on Child Care and the Child Care and Development Block Grant Task Force.

Audit work included a review of the process used by department personnel for selecting and inspecting family and group homes. An evaluation was made whether the department has a system for measuring program success. Work included an examination of information the central office gathers and the department's use of the information in reviewing and analyzing child care activity. Descriptive information on the Montana Automated Child Care System (MACCS) and the Child and Adult Protective Services (CAPS) System was also gathered.

This performance audit did not include an evaluation of the need for regulation of child care providers. Our audit scope did not include a review of the financial eligibility of families receiving child care benefits, child care rates, or legally unregistered providers. Adult Day Care and child care programs administered by the now defunct Department of Social and Rehabilitation Services were not examined as part of this audit. Providers and parents were not contacted to obtain opinions on the child care program.

Data Limitations

Government auditing standards require disclosure of any constraints imposed on the audit because of data limitations. We attempted to complete a workload analysis to determine if staff levels are appropriate for current workload. This attempt included obtaining historic information such as the number of full-time equivalent (FTE) employees working with the child care program, the number of licensed/registered facilities, the number of facilities inspected, and the type of violations identified. An analysis was not possible due to the limited amount of information compiled and analyzed by DFS. This impacted our ability to address our fifth audit objective of determining whether FTE levels affect DFS's ability to meet statutory requirements.

This type of data limitation also adversely affects the department's management of program activities. Types of limited or missing information include detailed time sheets, workload data, and analyses of time necessary to complete specific tasks. Data limitations and its effects are discussed in Chapter IV.

Management Memorandum

During our audit we met with DFS personnel to discuss selected audit issues and potential report recommendations. We issued a management memorandum to department officials on one issue which is not included in the report. The issue was:

Coordination Efforts With Other Agencies - The department needs to review current coordination efforts and modify the inter-agency agreement accordingly.

Legislative Issues for Further Study

Government auditing standards require the reporting, if appropriate, of significant issues needing further study. Two areas related to child care regulation warrant further study: 1) preschools; and 2) drop-in child care. Examination of these areas were not within the scope of our performance audit. Further study is warranted for the following reasons.

Preschools

Preschools are statutorily exempt from child care certification requirements. Providers can and have used this exemption as a "loop-hole" to avoid regulation. According to DFS staff, providers have changed the name of their businesses to include the words "preschool." As a result, these providers, who may have been denied a child care license by DFS, can provide child care services without state certification.

A review of preschool operations in Montana could be conducted to determine public expectations and whether safety and protection of children are needed for this level of care. Depending on the results of a study, the legislature may consider regulation of preschools to help ensure a minimum level of safety and well-being for children.

Drop-In Child Care

Drop-in child care providers currently are not regulated by the state. Definitions within the Montana Child Care Act do not include drop-in care. Drop-in child care is similar to licensed/registered care except care is not provided on a regular basis. Drop-in child care providers include facilities such as shopping malls, casinos, health clubs, and ski resorts. There are also facilities established where drop-in care is the only service provided.

National standards recommend drop-in care facilities comply with the same standards as regular care facilities. Due to similarities between regular and drop-in child care, the legislature may want to include drop-in providers within the statutory definition of child care. A study could be completed to determine if a person(s) providing drop-in child care as a business should be required to comply with the Montana Child Care Act. This will help ensure all children are provided the same level of protection while outside the care of their parents.

Report Organization

This report is organized in the order we address our audit objectives. Chapter II outlines general background information on child care certification and monitoring. The report then summarizes child care regulation in Montana in Chapter III. The next section, Chapter IV, describes our findings related to managing the Child Care Program. Finally, Chapter V discusses the department's compliance with child care regulations.

Chapter II - Background

Family Services Program History and Mission

The Department of Family Services (DFS) was established in 1987 by the 50th Legislature. The department was organized to address problems with fragmented services for children and families. The mission of DFS was "To Protect Children and Adults by Supporting Family and Community Strengths." This mission consisted of several elements.

-- The department exists to provide protection for those who are not able to protect themselves.

-- The best way to provide protection is to develop family support and preservation.

-- Families are part of communities and communities provide the best opportunity to support and nurture the family.

Currently, the Family Services Program within the Department of Public Health and Human Services (PHHS) is operating under the same mission as the now defunct DFS.

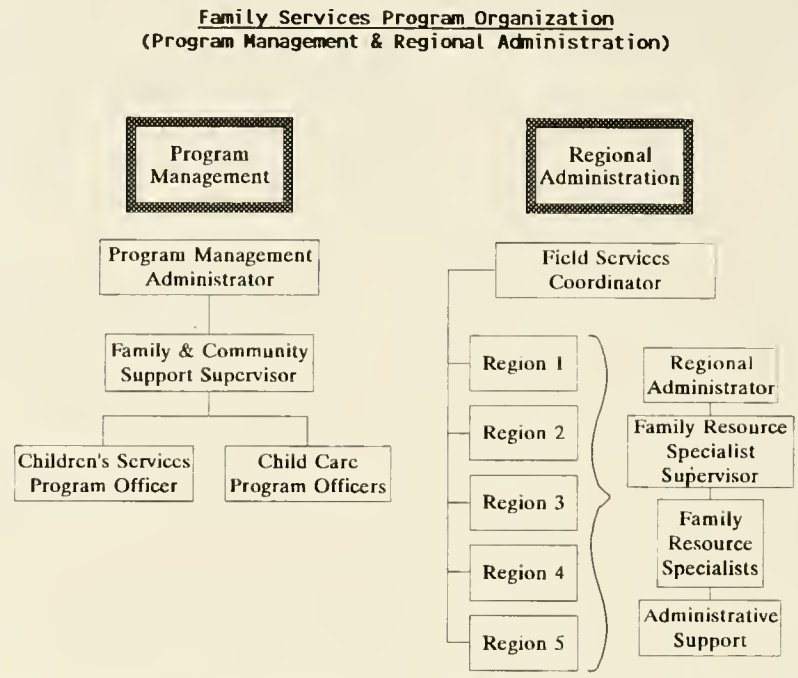
Family Services Program Organization

The Family Services Program is one of twelve units making up the new PHHS. Each program manager reports directly to the department director. The Family Services Program provides the following seven services:

1. Adoption.
2. Aging.
3. Child Care.
4. Family Preservation and Support.
5. Management.
6. Out-Of-Home Placement.
7. Protective Services.

There are two organizational units within the Family Services Program with primary child care responsibilities. These units are Program Management and Regional Administration. The following figure shows the current organization of these two units, in relation to child care.

Figure 1



Source: Compiled by the Legislative Audit Division from department records.

Program Management

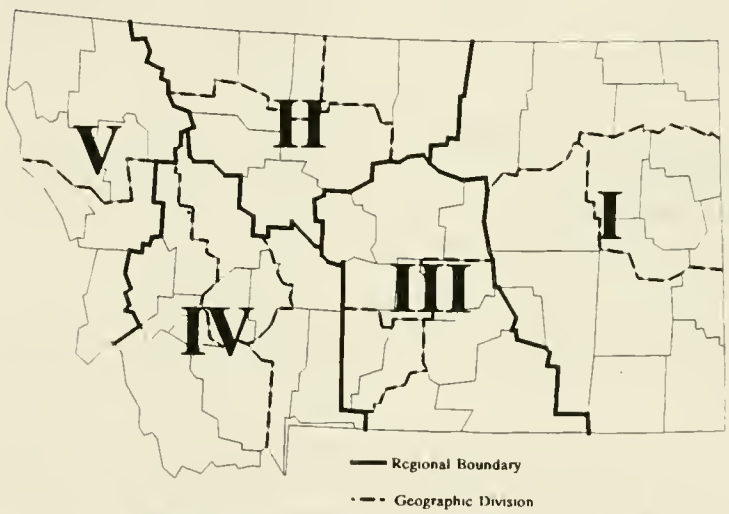
The Program Management unit, located in Helena, provides program management, administrative services, technical assistance, and training for regional personnel. Staff in this unit are responsible for overall administration and policy development for certification and monitoring of child care facilities. Unit personnel develop and monitor rules, policies, grants, and contracts for child care. There are two FTE positions (child care program officers) responsible for child care program administration. Also having some child care certification and monitoring responsibilities are a children's services program officer, a supervisor, and an administrator.

Regional Administration

The Family Services Program uses a regional management structure made up of five regions: 1) Eastern (Region I), 2) Northcentral (Region II), 3) Southcentral (Region III), 4) Southwest (Region IV), and 5) Western (Region V). Each region has a main office at the following locations: Miles City, Great Falls, Billings, Helena, and Missoula. There are other offices within each region separated by geographical divisions. The following illustration shows the five regions in the state, including geographical divisions within each region.

Figure 2

PHHS Regional Boundaries



Source: Compiled by the Legislative Audit Division from department records.

Regional responsibilities include administration, management, and supervision necessary to ensure program requirements are met. Child care personnel within the regions include regional administrators, family resource specialist supervisors (FRSS), family resource specialists (FRS), and administrative support. A field services coordinator, located in Helena, has oversight responsibilities for the five regions. As of June 1995, there were 5 FTE supervisor positions and 9.2 FTE specialist positions responsible for child care certification and monitoring. In addition to these

personnel, other department employees may have involvement with child care situations of potential abuse or neglect.

The resource specialists and supervisors are responsible for issuing and renewing child care licenses/registrations, monitoring child care providers and facilities, and investigating reports of potential child care violations. They also complete inspections of licensed child care centers and registered family and group homes.

Staff within the central office and the regional offices may have additional responsibilities including:

-- Child Protective Services.
-- Adult Protective Services.
-- Tribal-State Agreements and Contracts.
-- Group and Foster Home Licensing and Monitoring.
-- Court Ordered Home Studies.
-- Adoptions.

Child Care Responsibilities

Child Care Defined

Statute defines "day care or child care" as "care for children provided by an adult, other than a parent of the children or other person living with the children as a parent, on a regular basis for daily periods of less than 24 hours, whether that care is for day-time or nighttime hours." Generally, child care is a supplemental form of care which provides parental care to a child up to the age of 13 years.

Prior to 1981, all child care providers were required to be licensed by the state. In 1981, the legislature provided for registration rather than licensing for child care family homes and group homes. Family homes provide care for 3 to 6 children, and group homes provide care for 7 to 12 children. Child care centers can care for 13 or more children. When all providers were required to be licensed, a large number of homes providing family child care did so without becoming licensed. It was anticipated with less restrictive registration, the unlicensed providers would become registered. Under registration, the department informs applicants of

requirements as outlined in statute and rules. Applicants then make their own determination of whether requirements are met by signing and notarizing the department's registration form.

As of March 1995, department records indicated the following number of licensed, registered and "legally unregistered" child care providers statewide.

Table 1

Child Care Provider Totals
(as of March 1995)

Type of Provider	No. of Children	Maximum Child/Staff Ratio[1]	No. of Providers
Centers	13 or >	8:1 - 14:1[2]	223
Group Homes	7 - 12	6:1	525
Family Homes	3 - 6	6:1	1,240
LUP[3]	1 - 2	2:1	1,023
TOTAL			3,011

[1] depends on the ages of the children in care
[2] ratio for infants is 4:1
[3] legally unregistered providers

Source: Compiled by the Legislative Audit Division from department records.

Licensed Centers

Licensed centers are child care providers which care for 13 or more children. Child/staff ratios are dependant on the ages of the children. The provider's own children, under the age of six years, are included in the total number of children receiving care. Table 2 shows statutory requirements for child care centers.

Table 2

Statutory Child Care Center Requirements
(Sections 52-2-723, 734 & 735, MCA)

Requirement	
1.	All personnel are of good character
2.	Staff numbers sufficient to provide adequate supervision & care
3.	Programs operate with due regard for protection of children
4.	Staff are qualified to give good care & treatment
5.	Intake records are kept
6.	Admissions limited to maximum number on license
7.	Precautions to guard against communicable diseases
8.	Liability & fire insurance are current
9.	Ages & number of children are specified
10.	Fire safety certification from Department of Justice
11.	Health protection certification from PHHS

Source: Compiled by the Legislative Audit Division.

Registered Family and Group Homes

Registered providers are either family child care homes or group child care homes. Family homes care for 3 to 6 children, with one adult staff member present. Group homes care for 7 to 12 children, with two adult staff members present. Again, the total number of children in care includes the provider's own children under the age of six years. The maximum child/staff ratio for registered providers is six-to-one. The child/staff ratio for infants (children under two years of age) is four-to-one.

A child care facility may not provide care for more than the number of children permitted at any one time by its license or registration certificate, with one exception: overlap care. Overlap care pertains only to registered providers. By rule, overlap care is a period of time, not to exceed three hours per day, in which the number of children in care may exceed the number of children registered for care. Overlap care must be approved by the department for a designated period of time.

The following table lists administrative rule requirements for child care centers, group homes, and family homes.

Table 3

Administrative Rule Requirements
(General)

REQUIREMENT[1]	C	G	F[2]
Program Requirements	X	X	X
Records, Scheduling	X		
Discipline	X		
Space, Materials & Equipment	X		
Support Services Space & Equipment	X		
Transportation	X	X	X
After School	X		
Night Care	X		
Staffing	X		
Parent Information	X		
Safety	X	X	X
Provider Responsibilities/Qualifications		X	X
Building, Fire Safety		X	X
Other Facility Requirements		X	X
Equipment		X	
Health Care		X	X
Swimming		X	
Nutrition		X	
Special Program Requirements		X	
Parent Involvement		X	
Additional Requirements		X	
Overlap			X
Infants - Health Risk		X	X
Infants - Diapering & Toilet Training	X	X	X
Infants - Clothing, Feeding, Bathing	X	X	X
Infants - Sleeping, Activities	X	X	X
Infants - Transportation, Equipment	X	X	X
Infants - Building & Space	X	X	X
Infants - Staff Requirements	X	X	X
Infants - Special Requirements	X		

1 ARM heading; requirement may vary by provider
2 C=Center, G=Group Home, F=Family Home

Source: Compiled by the Legislative Audit Division.

Legally Unregistered Providers

The "legally unregistered" classification was created due to a federal mandate. Providers caring for children who are eligible for subsidized child care must register with the department to receive payment from the state for child care services. This classification is a "limited registration" and providers are not subject to all department licensing and registration requirements applicable to child care facilities. These providers may care for one or two children, infant through 12 years of age, including the provider's own children under the age of two. Care providers can be family members or friends who do not live with the child. This type of provider is required to renew its legally unregistered status annually with the department.

Child Care Provider Certification

Licensing Process

The licensing process (child care centers) begins with receipt of an application to provide child care services in 1 of 14 offices in the five regions. The FRS or an administrative support person reviews the application to ensure all required information is submitted. A criminal background check and child protective services (CPS) check are completed. An inspection of the facility and interviews with personnel are made to verify compliance with licensing standards. Standards include, among other things, fire, health, safety, and staffing requirements. Upon completion of the inspection, the FRS makes a licensing decision. The FRS can recommend one of the following actions:

-- Wait for further information.
-- Issue a provisional license.
-- Issue a regular license.
-- Deny the application.

A provisional license may be issued for up to a three month period. Provisional licenses are usually issued to allow a child care provider to come into compliance with regulations. Only two consecutive provisional licenses may be issued to a facility for a total of six months. The FRS supervisor has final approval/denial authority for licensing.

Registration Process

The registration process is performed in a similar manner to the licensing process, except there is no inspection. Laws do not require the department to inspect family or group child care homes applying for registration. Applicants applying for registration must submit a detailed checklist certifying their intent to comply with all child care criteria.

Recertification

Each license/registration certificate is valid for one year. The department notifies a provider of the renewal requirement by sending out a renewal packet prior to the expiration date. The packet contains different forms from the initial review, yet the same information is reviewed during recertification. Once all forms are complete and received by the department, the FRS makes a licensing decision. For child care centers, an inspection is completed prior to making a decision.

Complaints About Care

Review of complaints about child care is the responsibility of the family resource specialist. Complaints vary in nature and can include violation of regulations and/or possible abuse or neglect. If abuse and/or neglect is involved, a Child Protective Services worker may become involved with the investigation. Laws require the department to investigate all referrals of potential abuse or neglect. The FRS investigates each complaint, which may include an inspection of the facility, and makes a decision on whether the complaint is substantiated. The decision is approved by the FRS supervisor and depending on the seriousness, the regional administrator. The department does not track the number of complaints received and investigated regarding child care providers and facilities.

Annual Inspections

Statute requires the department to inspect child care facilities to ensure minimum standards are being met. The department must make annual unannounced inspections of licensed facilities. For registered facilities, law requires the department to inspect at least 20 percent of all facilities in each region annually. The FRS interviews the child care provider, reviews records, and observes the facility during an inspection. When noncompliance is identified, the FRS writes a letter to the provider indicating the

concern(s) and defining corrective action. Follow-up to verify compliance depends on the initial violation.

Advisory Council

There is a Child Care Advisory Council (council) administratively attached to the department designed to provide advice on child care issues. The council, authorized by section 52-2-705, MCA, has ten members appointed by the governor. Statutorily assigned duties of the council include review and coordination of a statewide child care plan, and serving in an advisory capacity to the department on child care matters. The council is directed to develop comprehensive and coordinated prevention programs to "strengthen the healthy development, well-being, and safety of children, families, individuals and communities."

Funding

The program is funded by a mix of General Fund, State Special Revenue Fund, and Federal Special Revenue Fund moneys. Child care activities are funded primarily with Federal and General Fund moneys. Of the 14.2 regional FTE, 5 FTE are 100 percent federally funded. The remaining 9.2 FTE are funded mainly with General Fund moneys, varying from about 60 percent to 70 percent General Fund. State Special Revenue Fund moneys are derived from reimbursements from non-assumed counties for operating costs which could include minimal child care costs.

The legislature authorized federal Child Care and Development Block Grant (CCDBG) funds to DFS beginning in 1991 to improve the availability, affordability, and quality of child care. The following table shows funds received for the past four fiscal years.

Table 4

CCDBG Funding
(FY 92 through FY 95)

Fiscal Year 1991-92	Fiscal Year 1992-93	Fiscal Year 1993-94	Fiscal Year 1994-95
$2,500,000	$2,700,000	$2,900,000	$2,900,000

Source: Department of Family Services records.

These federal funds are used to assist families living below 133 percent of the federal poverty level who are employed and/or attending job or educational training and require child care. Funds are also used for improving availability and quality of child care programs, child care resource and referral services, and training child care providers.

Legislative Intent Within the Montana Child Care Act is Being Met

To answer the question associated with our first objective, "Is legislative intent outlined in the Montana Child Care Act being met," we identified the major areas in statute related to intent of the program. There are five intent areas outlined in the Act:

-- Promote child care for the purposes of improving the quality and coordination of child care programs and providing additional resources for child care services.

-- Promote the availability and diversity of quality child care services.

-- Provide assistance to families unable to pay the full costs of needed child care services.

-- Ensure parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility.

-- Assist parents in finding and maintaining employment by reducing stress related to the lack of adequate child care.

However, the language of the Act is not specific as to the extent of activity required under each of these five areas.

The Act does list some statutory responsibilities for the program including:

-- Assessing child care needs and resources within the state.
-- Developing a state child care plan.
-- Coordinating child care programs within state government.
-- Issuing licenses to persons to operate child care centers.
-- Prescribing conditions and publishing minimum standards for licenses and registration certificates.
-- Adopting rules for child care providers and facilities.

Our audit work determined the department is conducting some activity for each of these responsibilities. The department assesses child care needs and resources through child care resource and referral services and public input. A state child care plan is developed and updated regularly. An inter-agency agreement was developed by the department to coordinate state agency child care programs. Minimum conditions, standards, and rules have been

adopted for child care providers and facilities. Finally, department personnel issue licenses to child care centers.

The department provides funding through the Child Care and Development Block Grant Program (CCDBG) to promote and improve child care in Montana. CCDBG funds are used to assist families needing child care services. All child care activities conducted by the department help ensure parents are not forced to place a child in an unsafe or unhealthy child care facility. By licensing and registering child care providers and providing funding to resource and referral agencies and child care providers, the department helps reduce stress related to lack of adequate child care. By accomplishing these activities, the department is meeting the intent of the Act.

Only a Minimum Level of Protection Provided

The second audit objective relates to the question, "Do the state's certifying and monitoring processes ensure the safety and well-being of children in child care?" This objective was based on the purpose section of the Act which states, "The purpose of this part is to assure that children requiring day care be provided such food, shelter, security and safety, guidance and direction, nurture and comfort, and learning experiences . . . so as to safeguard the growth and development of such children. . ." This language may create higher expectations than regulations actually provide. Current laws, rules, and policies provide only a minimum level of protection to ensure the safety and well-being of children in child care. Most requirements in the Act relate to safety. Quality of child care is not defined in statute nor is quality measured by department personnel. For example, administrative rules for family homes include fire safety requirements, but do not include requirements for daily activities.

Therefore, the state's certifying and monitoring processes are not intended to ensure the safety and well-being of children in care, but are intended to provide a minimum level of regulation. The department is performing its responsibilities under the law.

Statutes do not Require Department to Search for Unregulated Facilities

An example which illustrates the minimum level of protection provided by the department is unregulated facilities. Although there is a process in place to follow-up on reports of unlicensed or unregistered facilities, statutes do not require any state entity to "search" for unregulated facilities. According to legal counsel within the Legislative Audit Division and the department, the state has no liability for children in unregulated facilities, unless the state is negligent in efforts to certify a facility after being informed of its existence. The state must rely on the general public to identify and report facilities providing child care services without a license or registration. Department staff said they believed there are numerous unregulated child care facilities operating throughout Montana. In fact, some of these facilities have been identified by the general public. Actions taken by these unregulated facilities varied from complying with the Act to opposing regulation. If unregulated facilities refuse to comply with regulations, the department must turn the matter over to the County Attorney in the area the child care service is provided. Until the County Attorney addresses the issue, the facility can continue to operate without regulation by the department.

Conclusion: Responsibility for Children not Removed from Parents

In conclusion, a parent's responsibility for protection is not removed when children are in child care regulated by the state. Current regulations provide for "self-certification" of family and group child care facilities. Regulations provide for increased review of child care centers. Processes are in place for reviewing complaints and periodically inspecting facilities. Regulatory activities conducted by the department provide a minimum level of protection for children in child care, but activities do not supplant parental care. It is up to the parents of children in care to determine whether a child care facility will provide all needs of their children, including proper nurturing and development.

Audit Findings

Although the department is in compliance with the overall language within statute, improvements in program operations could be made. Audit findings relate to specific program weaknesses which do not significantly affect the overall protection of children in child care. The following two chapters list program deficiencies and specific points of noncompliance. These chapters discuss clarity of policies and procedures, excessive requirements, line of authority, need for sufficient control, and compliance with regulations. Most of the issues discussed in Chapters IV and V relate to Central Office responsibilities. We believe implementation of our recommendations will increase the effectiveness of current child care activities.

Chapter IV - Managing the Program

Introduction

This chapter discusses managing the Child Care Program. For a program to exist and be meaningful, several things must be defined and/or maintained:

-- Major duties and activities.
-- Clear functional authority.
-- Sufficient control.

A program should be designed to ensure everyone knows who is responsible for what tasks, how these tasks are performed, and how to analyze program results. It should minimize confusion and clarify assignments. We realize the Child Care Program is partially decentralized, but these things should still exist. A program must also operate under defined policies. Specific practices can be left up to each individual; however, policies should be followed by all program personnel.

We believe improvements could be made by the department in managing the Child Care Program. The following sections discuss these needs.

A Program Should Have a Clear Concept of Major Duties and Activities

Within a program everyone should know what their job is and how to do that job. Policies and procedures and a process for changing and updating policies and procedures are integral to a productive program. Written policies and procedures guide personnel in performing program functions in an accurate, consistent, and efficient manner. Policies are intended to strengthen program purpose, and procedures are designed to streamline the process. Written policies and procedures must be clear, concise, kept up-to-date, and communicated to staff. Out-of-date and/or ambiguous policies and procedures can cause misinterpretation and inconsistencies.

Out-Dated Policies and Procedures

We reviewed the Family Services Program policies and procedures manual. Child care policies and procedures in the manual are out-of-date. These procedures date back to 1982 through 1986, when the child care program was located within the Department of Social and Rehabilitation Services. An updated draft version of certification and monitoring policies and procedures was circulated for comment in 1992, with several successive updates; however, this draft was not yet finalized at the time of completion of our audit.

Inconsistencies occur in the field because of out-dated policies and procedures. For example, some regional staff follow old policies and procedures, while other staff use the draft, and still others use their own interpretation of rule or statute. One example of inconsistent procedures used by staff is verification of fire and liability insurance. Some staff require an actual document from registered providers for verification of insurance. Other staff call the insurance carrier to verify coverage. Other staff consider the registration process as "self-certifying", which places the burden of proof on the provider, not the department. Out-of-date and unclear policies and procedures are a cause for some noncompliance discussed later in this report.

Process for Change has been Untimely

The process used by the department for establishing and changing policies and procedures has been untimely. Various groups internal to the department review draft versions numerous times. Not all staff involved in the internal process understand how approval is achieved. Currently, the department's process is to have everyone agree with a proposed policy change without placing time limits on reaching a decision. The 1992 draft policies and procedures were not implemented because consensus could not be reached on all policies, consequently delaying implementation of a considerable number of agreed upon policies.

Draft policies and procedures have been in review status for so long, regional staff are confused as to what is current and what is draft. Regional staff indicate they have received numerous drafts creating uncertainty about which draft is the most recent draft. Some staff said they are disregarding revisions until a final version is approved. Other staff we talked with are convinced some draft

procedures were already approved and are implementing draft procedures prior to actual approval.

Lack of established time frames for reaching consensus promotes inefficiencies. There is no incentive for efficient review if staff are not directed by time frames. Another weakness is the lack of overall authority. If consensus cannot be reached, no one takes responsibility for resolving the situation by making a final decision. The combination of these two deficiencies led to the department's current situation of out-dated policies and procedures.

We believe management should change it's process for updating policies and procedures. For example, the department should establish a process for reaching consensus on proposed changes to policies and procedures. This consensus building process should include defining the mission of the overall process, establishing goals and objectives for review and implementation, and setting time limits for reviewing drafts and reaching consensus. Also, a person with authority for resolution must be designated to resolve issues when consensus cannot be achieved.

Management should separate proposed changes into smaller, more workable sections. Implementation should be achieved immediately after each section is approved. In addition, management should immediately finalize and implement draft policies and procedures where consensus was reached.

Recommendation #1

We recommend program management:

A. Finalize and implement agreed-upon draft policies and procedures immediately.

B. Change the current process for implementing policies and procedures to include consensus building, time limits, final authority, and workable review sections.

Use of Outdated Forms and Publications is Occurring

An effective program ensures everyone has access to and is using current forms for completion of duties and activities. Not all family resource specialists use up-to-date checklists to document provider compliance with regulations. Also, some family resource specialists distribute out-dated fire safety rules and child care rules and publications to providers and parents. In four of five different locations we visited, regional staff were using outdated family/group home checklists. At one location out-dated rules were distributed to applicants and providers. The current Day Care Center Study form implies a requirement of eight hours of annual training for each care-giver, yet rule requires eight hours of training only in the first year of providing care.

Current Procedures Could Contribute to Provider Noncompliance

Because regional staff are not using current checklists, not all providers are measured by the same standards. Furthermore, if self-certifying providers are not fully informed of current requirements, noncompliance could be disputed. It is contradictory to expect compliance when out-dated materials are distributed.

Central office staff have not compiled current publications of child care regulations for distribution to providers and parents for some time. As was previously mentioned, policies and procedures have been in draft form for several years. This delay affected updating applicable checklists and revision of publications.

According to management, child care regulations are continually changing, so costs for updating forms could be high. Management should then implement a process for periodically updating forms and publications which is conducive to change. For example, the department could consider making forms and publications available electronically, eliminating the need for mass production. Another idea is revising forms and publications to make them easier to update. This could be accomplished using electronic format and/or loose-leaf binders. Management should also consider the need for certain publications. The checklists used by department staff to review provider compliance may sufficiently explain rules and regulations. If not, the checklists could be revised to accomplish this.

Management also needs to implement a process for ensuring regional personnel use current forms and publications. Because central office personnel have the responsibility for changes in rules, checklists, forms and publications, they should develop an efficient process to help ensure regional staff have access to current forms and publications. The department recently implemented the use of E-mail (electronic mail generated and sent via computer). This would be a good way to notify and update regional personnel.

Recommendation #2

We recommend program management:

A. Establish a system for updating forms and publications by evaluating and implementing alternatives such as use of electronic format and revision of current forms.

B. Ensure all staff receive, use, and distribute current forms and publications.

Current Regulations May Contain Excessive Requirements

We reviewed 49 active provider files and 11 closed files in four regions. Active files included 21 family homes, 9 group homes, and 19 centers. Closed files consisted of 3 family homes, 7 group homes, and 1 center. We developed a list of criteria from statute, rule, and policy, and based our review on this list. Results of our file review identified several concerns regarding the need for all existing regulations.

Generally, provider files contain documentation such as application and renewal forms, copies of certificates issued, program history, inspection results, and other documents determined necessary by regional staff. Audit work found limited documentation of providers compliance with regulations. The following examples illustrate some of our findings.

-- Statute requires all providers to have fire and liability insurance. Fifty-one percent of the files reviewed did not contain documentation which indicates staff verified the status of fire and liability insurance.

-- Staff are required by policy to complete annual criminal and child protective services (CPS) investigations of individuals providing care or seeking to care for children. Providers sign a release of information form giving staff authorization to conduct these investigations. Of the files reviewed, 36.7 percent did not contain all necessary signed release of information forms. In addition, 46.9 percent of the files did not contain verification CPS checks were completed and 48.9 percent of the files did not contain verification criminal checks were completed.

-- Section 11.14.103, Administrative Rules of Montana (ARM), requires a provider to submit three personal references before a license or registration is granted and ". . . annually thereafter. . ." Fifty-seven percent of the files did not contain verification three references were provided. Of the files in which references were provided, 33.3 percent did not contain verification the references were contacted.

-- Sections 11.14.301(10) and 11.14.401(10), ARM, require family and group home providers to attend orientation training within the first 60 days of certification. Of the family and group home files reviewed, 47.4 percent did not have verification of required orientation.

-- We did not identify major concerns during our review of closed provider files. However, we were unable to determine when and why a facility quit operating because the closure date and reason for closure is not clearly documented in each file.

Family Services Should Evaluate Need for Requirements

Regional staff make individual decisions as to how often a procedure is necessary and what type of documentation is needed. This resulted in inconsistencies in completion of requirements, including verification procedures. For example, not all staff complete CPS and criminal checks annually. Management may want to evaluate the necessity of annual checks. Administrators could continue current policy requiring CPS and criminal checks at initial certification, with periodic follow-up checks, possibly every two to three years.

Another revision could be to modify the need for child care providers to annually submit three references. The present requirement of three references upon initial application could remain; however, subsequent references may not be required annually, but for a longer time frame, for example five years.

Missing Documentation does not Correlate with Complaints Received

Lack of compliance with requirements did not reveal significant negative effects in child care services. For example, files which did not indicate a CPS check was completed annually did not contain documentation of increased complaints of possible child abuse and neglect. We visited five offices in four regions and identified files with missing documentation. However, missing documentation did not appear to correlate with complaints received about child care facilities.

Program personnel have not reviewed requirements to determine whether each procedure and all paperwork is necessary for protecting children in child care. There is no formal process in place to periodically review statute, rule, and policy to ensure what is required is essential to the operation of the child care program.

We believe some of the requirements established by the central office may not be necessary or may not be cost effective to complete. Because we did not observe any negative effects associated with our findings, we believe management should evaluate requirements to eliminate unnecessary certification and monitoring requirements. This evaluation should consider time constraints and more critical workload requirements such as facility inspections. According to national standards, the most effective way of ensuring compliance with standards is inspecting facilities. Once this evaluation is complete, changes to requirements should be implemented.

Recommendation #3

We recommend program management:

A. Evaluate current regulations and procedures to eliminate unnecessary child care certification and monitoring requirements.

B. Seek changes to statute, rule, and/or policies and procedures based on results of the evaluation completed in Recommendation #3A.

Functional Authority

Another program criteria is the need for clearly defined functional authority. Functional authority is the permission given an individual or specialist over a specified process, practice, policy, or other matter relating to a job responsibility not directly supervised.

Functional Authority of Family Services Staff not Clearly Defined

It is imperative management define the exact nature of functional authority for child care and spell out the delegation of this authority to staff. Centralized authority over policies and procedures is needed to ensure consistency in major practices at the regional level. Functional authority should at the same time be carefully restricted so regional administrators can still effectively direct operations.

The program operates as a partially decentralized organization. Management gave functional authority of its centralized activities to staff in Helena. These central office staff are responsible for compilation and dissemination of child care rules, policies, and procedures to regional staff. The decentralized portion of the program operates in the five regions. Regional staff answer directly to a regional administrator, and perform the day-to-day certification and monitoring operations of child care. The extent of the functional authority of the central office is not clearly defined, thus regional staff do not understand their overall authority either. Staff are not aware of who is ultimately responsible for providing

necessary direction. Individual responsibility and authority needs to be defined and explained to all staff.

Confusion About Authority is Creating Inconsistencies

The unclear functional authority within the program is creating confusion and inconsistencies. Interviews with staff disclosed frustration and uncertainty as to the authority of central office staff and difficulties with communication between the regions and the central office. For example, a regional staff member asked a staff member from the central office, whom they thought had authority, for clarification of a specific procedure. Another staff member, from the same region, contacted a different central office staff member, whom they assumed had authority, for clarification of the same procedure. The result of these two conversations was two different instructions as to the manner in which to comply with policy.

Another example of uncertainty was observed during a recent child care staff meeting. Regional staff asked if they should be tracking expiration dates of insurance held by providers. Central office staff thought it was a good idea; however, they said they did not have the authority to request staff to assume the task. This appeared to create confusion among staff as to who has authority to delegate procedures. Due to this confusion, staff conduct certification and monitoring procedures inconsistently.

Recommendation #4

We recommend program management:

A. Clearly define the areas of functional authority of the central office and the regions.

B. Communicate and explain the definition of functional authority to all staff to ensure they are aware of their authority and responsibility.

Need for Sufficient Controls

For a program to exist and be meaningful, it must have sufficient controls. Sufficient control includes a decision-making network which provides staff with relevant management information and a method to inform personnel of program issues. Our review indicates a need for increased control over program operations.

Family Services Should Compile Relevant Management Information

Management does not compile information to evaluate program needs or the success and effectiveness of child care operations. For example, management does not collect information such as the number of licenses and registrations revoked, or the types and number of child care complaints received. A limited amount of management information is compiled, yet this information may not be properly utilized. For example, central office staff compile outcomes of the 20 percent annual inspections of family and group homes; however, this information is not provided to regional staff. According to regional staff, most management information received from the central office is not useful.

Management information is essential to a decision-making network and helps sustain effective control of a program. A management information system should relate to the demands of a program and individual staff, and should provide accurate, timely and relevant information. The system should also provide relevant reports to individuals responsible for planning, control, and decision-making.

The agency recently started analyzing full-time equivalent positions through an internal committee. The information collected relates only to caseload. Other workload information is not compiled. For example, management does not require regional staff to track time spent on child care activities such as inspections, referral investigations, telephone work, or travel. Because of limited workload data, we were unable to complete an analytical workload analysis. This also impacts the department's ability to analyze workload.

Department Administrators Believe Management Information is Necessary for Other Programs

Historically, Department of Family Services programs provide protective services. Programs such as Foster Care and Adoption receive higher priority than the Child Care Program. Based on past efforts by the department to develop the new Child and Adult Protective Services (CAPS) system, program administrators have decided management information is necessary for operation of the protective services programs. Compilation and analysis of management information regarding child care activities is as important as other department programs. This type of information helps in making management decisions and can be used for evaluating program needs, successes, and effectiveness. Management information can be used to identify problems in operations, inform staff of progress, provide information to the legislature and the general public, and to justify requests for resources.

Management has not developed a process to compile relevant child care information because it does not see a need for management information. Best management practices indicate a need for management information in order to track program success and effectiveness. If department administrators want to properly manage programs, they need relevant information to analyze efficiency and effectiveness.

Recommendation #5

We recommend program management compile management information which measures program efficiency and effectiveness.

Planned Communication Between Central Office and Regional Staff is Necessary

Communication is a critical element of sufficient control. Good communication is the transfer of information from and between individuals of facts, ideas, and opinions. Before the information can be transferred it must be understood by the receiver. A person's duties within a program are clear only when the activities to be undertaken and the mission to be fulfilled are communicated and understood. A process for collectively informing personnel of on-going issues provides an effective method for ensuring

consistency among all staff. Management does not have a planned method of communication. Interaction has been disjointed. There are no planned, periodic methods of communication.

Staff interaction provides discussion of rules, policies, and procedures. Interaction, such as periodic child care meetings or use of electronic mail, could help reduce some of the issues we identified such as the use of outdated checklists, and use of inconsistent procedures. At the first department child care staff meeting in two years, central office and regional staff were provided an opportunity to discuss day-to-day operations as a group. Discussions included enforcement procedures, a creative method for calculating child:staff ratios, different methods used for verification of insurance coverage, and current and up-coming rules and the need for updating rules. Discussions also identified inconsistencies in interpretation of rules, policies, and procedures. This confirmed some of our audit findings. Regional staff said they were pleased with the accomplishments of the meeting and would like the opportunity to continue these on a regular basis.

Interactions between child care staff have traditionally been tied to some type of specific training. According to management, the training budget is restricted; potentially limiting future staff interactions. During budget development management should develop ideas for communicating cost effectively. This could include staff meetings, newsletters, and/or electronic mail.

Due to the decentralized organization of Family Services, staff meetings can be difficult to arrange. However, we believe the value of staff meetings outweighs potential difficulties. Rotating meetings throughout the 14 offices in the state could be one way of limiting difficulties. Communication is crucial to increasing the effectiveness of the child care program.

Recommendation #6

We recommend program management develop a plan for regular, on-going communication among staff members.

Chapter V - Compliance

Introduction

Audit standards require reporting of noncompliance issues related to objectives. We identified several instances where the Family Services Program is in noncompliance with statutes and rule. The following sections detail our findings and recommendations.

Most Inspections of Child Care Centers are Announced

Most annual inspections of child care centers are announced. Family resource specialists almost always pre-arrange inspections with providers. Section 52-2-733(4), MCA, requires the department to make annual unannounced inspections of child care centers. National standards recommend at least one annual unannounced inspection to each center. Unannounced inspections provide an opportunity to see care provided as it functions from day-to-day, without the preparation which accompanies an announced inspection. Both statute and rule require periodic inspections to all licensed child care centers to ensure continued compliance. Department child care licensing procedures, CSD-SS 808-3, require every licensed center to be inspected at least twice a year. Draft procedures instruct family resource specialists to make periodic inspections to all licensed day care centers, and each center should be inspected at least twice a year, with one inspection unannounced.

In most locations, family resource specialists said they pre-arrange child care center inspections in order to avoid "missing" the directors. Some regional staff believe unannounced inspections to centers promote an unhealthy relationship between providers and the department. Staff said because compliance is the ultimate goal, they prefer to make the inspections as accommodating as possible.

According to regional staff, two inspections a year to a center is unrealistic because of time constraints. Also, regional staff believe central office staff have an unrealistic understanding of regional duties and time restraints for completing two inspections per year.

Unannounced inspections to providers are required by law and rule. The child care program is a "regulatory" program, so department personnel need an "enforcement" philosophy. Management needs to adjust this emphasis. According to national standards,

unannounced inspections benefit regulation of child care. However, if management believes unannounced inspections are not necessary to ensure the safety of children in centers, then the law and rules need to be changed.

Recommendation #7

We recommend program management:

A. Adjust its inspection enforcement emphasis to adhere to current law regarding unannounced inspections, or

B. Change the law and rules to reflect its determination that unannounced inspections are not necessary to ensure the safety and well-being of children in child care centers.

Annual 20 Percent Inspections of Family and Group Child Care Homes are not Completed in Each Region

Program personnel did not complete inspections of at least 20 percent of family and group homes in each region during calendar years 1993 and 1994. Section 52-2-733(3), MCA, and section 11.14.109(3), ARM, require the department to inspect at least 20 percent of all registered family and group homes in each region annually. As mentioned previously, inspection of facilities is the most effective way to ensure compliance with standards.

Inspections of registered facilities were completed during 1993 and 1994, but the number of inspections completed per region did not comply with regulations. Central office staff select a 20 percent random sample of family and group home facilities based upon state-wide numbers. Although the process used to select the sample appears reasonable, using a state-wide total rather than regional totals does not ensure compliance with regulations. Each region could have a different percentage of inspections completed, some being less than 20 percent, but the state-wide inspection total could be 20 percent or more. For example, in 1994, 288 registered facilities were inspected state-wide, which is 21 percent.

However, one region inspected less than 16 percent of its registered facilities.

Family Services Program personnel complete inspections of family and group homes in order to comply with laws and rules. However, the current process does not ensure 20 percent of family and group homes are inspected in each region. Management has two options: 1) change regulations to allow a state-wide selection; or 2) change the current process and select samples for each region.

Recommendation #8

We recommend program management:

A. Seek legislation to amend current statute regarding inspection of 20 percent of all registered homes per region, or

B. Modify the current sample selection process to ensure a 20 percent sample is selected in each region.

Provisional Certificates are Exceeding Required Time Frames

Twenty percent (2 of 10) of the files reviewed with provisional certificates had certificates which were not issued in compliance with statute and rule. Provisional time frames were exceeded. The exceeded time frames varied from two weeks to three months.

Provisional certificates can be issued by staff for a period of time which may not exceed six months (section 52-2-724, MCA). Section 11.14.105(4), ARM, further specifies a provisional certificate may be issued for a period of up to three months if a child care provider does not meet all of the requirements and is attempting to comply. Rule allows for a second three month provisional certificate to be issued in special circumstances for a total provisional status not to exceed six months.

Aside from noncompliance with statute and rule, we were unable to identify significant effect as a result of this noncompliance. There is confusion at the regional level in understanding provisional certificate requirements. Staff at one regional office presumed a provisional certification could be issued for a six-month period, with a total not to exceed one year.

Recommendation #9

We recommend program management communicate to staff current standards regarding provisional certificates.

Agency Response

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November 27, 1995

NOV 27 1995

Mr. Jim Pellegrini
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Dear Mr. Pellegrini:

Enclosed please find the Family Services Program response to the Performance Audit Report which contains recommendations regarding the Child Care Certification and Monitoring program. Also enclosed are three copies of the final report provided by your office.

Our response contains the Family Services Program Response for each recommendation. We have included whether or not we concur with the recommendation, action plan and, when possible, anticipated time frames for completion of each plan.

Please notify me of the date your report and our response will be provided to the Legislative Audit Committee. Please feel free to contact me if you have any questions about the enclosed response.

Sincerely,

Hank Hudson, Administrator
Family Services Program

Enc.

cc: Peter S. Blouke, Ph.D., Director
Shirley K. Brown, Administrator, Program Management
Frank Kromkowski, Chief, Family & Community Services Bureau
Richard Kerstein, Administrator, Field Services
Lynda Hart, Child Care Program Officer
Becky Siebenaler, Child Care Program Officer

FAMILY SERVICES PROGRAM RESPONSE TO PERFORMANCE AUDIT REPORT (December, 1995):

Child Care Certification and Monitoring

I. Introduction:

This document contains the Family Services Program (Program) response to the performance audit report of the Child Care Certification and Monitoring Program. Included in this response is whether or not the Family Services Program concurs with each recommendation, the action plan to address each recommendation and, when possible, a time frame for each action plan.

According to the report, the Legislative Audit Division provides recommendations to effect "improvements in program operations." Notice should be taken of the fact that the audit found the child care certification and monitoring program "in compliance with the overall language within statute" and that "the [program] is performing its responsibilities under the law." In addition, although the Legislative Audit Division provides recommendations for changes in the administration of the program, the report states: "Audit findings relate to specific program weaknesses which **do not** significantly affect the overall protection of children in child care." (Emphasis added)

This document contains the response of the Family Service Program to the audit report. Under Dr. Blouke's proposed organizational chart for the central office of the Department of Health and Human Services, the child care licensing and registration functions may be transferred to a different division. Therefore, changes within the child care certification/ registration program may result from reorganization.

II. Program Response to Audit Recommendations:

Recommendation No. 1:

A. Finalize and implement agreed-upon draft policies and procedures immediately.

Program Response:

Concur: The Family Services Program finalized major child care policies in August, 1995 and incorporated those policies into the Licensing Policy Manual. All Family

Resource Workers (FRS) and their supervisors received training on the policies in September, 1995. These policies were not finalized on a "piecemeal" basis because the Program developed the licensing policy manual and trained on all the licensing policies in the manual at one time. Now that the Program has issued the licensing manual, up-dated and modified policies will be finalized and implemented as individual policy sections are completed.

B. Change the current process for implementing policies and procedures to include consensus building, time limits, final authority, and workable review sections.

Program Response:

Partially Concur: The Program contends that the untimeliness observed by the auditors during the fieldwork phase of this audit occurred because of unusual circumstances. During the past two years, the Program has re-instituted the Standing Committee process, conducted a regulatory review, developed a licensing manual, and experienced reorganization in the central office. The Program further contends the process requires "fine-tuning", not change. The Program does, however, commit to accelerating the process for implementing policies and procedures whenever possible.

The process currently utilized by the Program is a direct consequence of the decentralized aspect of the Child Care Program. Most of the activity of this program occurs in the regions with regional staff or under contract with the Resource and Referral Agencies. The central office has two full-time staff and a portion of one Bureau Chief dedicated to child care. Policies cannot be developed at the central level with a mandate to the regional staff to follow those policies without allowing time in policy development for: a) soliciting input from regional staff; and b) adequate review time by regional staff. Issues also are referred to the Licensing Standing Committee when exceptions to the policies probe the limits of the rule/policy and change/ modification in the policy may be necessary.

The Program utilizes the standing committee process to develop and finalize policies. The Licensing Standing Committee is comprised of the Children's Services Licensing Program Officer, the FRS Field Supervisors and a Regional Administrator. The composition of the standing committee reflects the necessity of obtaining input from regional staff prior to finalizing policies and procedures. The Licensing Standing Committee meets at least quarterly and more frequently if needed.

The standing committee process currently utilizes the formal consensus decision-making process and the committee has received training on this process. If consensus cannot be reached, the final decision-making authority rests with the Administrator of the Family Services Program. As stated above, policy finalization and implementation will be on a section-by-section basis; thereby meeting the recommendation of "workable review sections."

Consideration of proposed policies may result in the need for further research, re-examination of the policy, and modification of the proposed policy. Frequently this process is time-consuming; however, broad input on the policies is essential to assure the policies are in compliance with applicable statutes and administrative rules as well as workable in the field. The Program anticipates the process will be more timely in the future and will strive to accelerate the process.

Recommendation No. 2:

A. Establish a system for updating forms and publications by evaluating and implementing alternatives such as use of electronic format and revision of current forms.

Program Response:

Concur: The Family Services Program will review all child care provider forms to determine whether or not the forms require up-dating. If up-dating is required, the forms will be up-dated by January 31, 1996. Some forms used by the child care staff and providers are obsolete because of implementation of the Montana Automated Child Care System (MACCS), the automated child care payment and information system which electronically interfaces with the CAPS system and was fully implemented in June, 1995. Regional staff and Resource and Referral Agencies shall be instructed to destroy all obsolete forms (See Response to Recommendation No. 2B).

All worker forms will be up-dated and used in a consistent manner with the full implementation of the Child and Adult Protective Services System (CAPS), the automated system which will be fully operational by September, 1996. Current data regarding licensed/registered providers is being entered into the CAPS system and will be completely entered into the system by December 31, 1995.

The publications containing child care Administrative Rules of Montana currently used by the Program were published in August, 1995, after the auditors completed the field work for this audit. These publications have been distributed to all child care staff and Resource and Referral Agencies. The Program commits to reviewing and up-dating publications annually. All publications will be reviewed, up-dated, and distributed to all child care staff by August 1, 1996, and annually thereafter.

B. Ensure all staff receive, use, and distribute current forms and publications.

Program Response:

Concur: The CAPS system will ensure consistent data entry by the FRS's; Central Office Program Officers will distribute all up-dated forms (see above) by March 31, 1996; FRS Supervisors will assure all workers utilize the up-dated forms and all up-dated forms are disseminated to providers as needed.

In addition, the Central Office Program Officers will notify field staff and Resource and Referral Agencies of the need to destroy all obsolete forms and the FRS Supervisors will assure all obsolete forms and publications are actually destroyed. The initial notification will be made to field staff and Resource and Referral Agencies when the up-dated forms are distributed (March 31, 1996). The up-dating and assurance that the current forms and publications are being utilized will be incorporated into policy training and become an on-going activity.

Recommendation No. 3:

A. Evaluate current regulations and procedures to eliminate unnecessary child care certification and monitoring requirements.

Program Response:

Concur: The Family Services Program conducted a regulatory review (initiated in 1993) as a requirement of the federal Child Care and Development Block Grant. Following completion of this review, the Program adopted a series of Administrative Rule of Montana changes based upon the recommendation of the review committee. In addition, draft rules that would complete the recommendations of the regulatory review are now being reviewed by the Family Services Legal Unit.

The Program shall establish a child care work group to finalize action concerning the regulatory review recommendations and to assess current regulations, procedures, and monitoring requirements. The membership of this work group shall consist of child care staff, child care providers and representatives of the Governor's Child Care Advisory Council. The recommendations of the work group shall be coordinated with the work of the Licensing Standing Committee. The work group shall be established by January 31, 1996, and shall be requested to submit its recommendations to the Program for inclusion in the Executive Planning Process.

B. Seek changes to statute, rule, and/or policies and procedures based on results of the evaluation completed in Recommendation No. 3A.

Concur: The Family Services Program will assess the feasibility of adopting the recommendations of the child care work group and implement the recommmendations if possible.

Recommendation No. 4:

A. Clearly define the areas of functional authority of the central office and the regions.

Program Response:

Concur: The definition of areas of functional authority will be a function of the reorganizational process which should be accomplished by July, 1997.

Under the current organizational structure of the Family Services Program, FRS's are directly responsible to the FRS Supervisors who, in turn, are responsible to the Regional Administrators. The FRS Supervisors are responsible for assuring that FRS workers are knowledgeable about the organizational structure. Under this structure, the Central Office Program Officers function as technical consultants, resource persons, and interpreters of policy to field staff. Field staff consult with the Program Officers; however, the authority to approve specific action resides with the FRS Supervisor in consultation with the Regional Administrator.

The areas of functional authority of the central office vis a vis the regions may change under the reorganization process of the newly created Department of Public Health and Human Services. Under Dr. Blouke's proposed organizational chart for the Department of Public Health and Human Services, child care licensing and registration may be transferred to a different division.

B. Communicate and explain the definition of functional authority to all staff to ensure they are aware of their authority and responsibility.

Program Response:

Concur: At the supervisors meeting scheduled for January 16-18, Central Office staff will clarify the organizational structure and lines of functional authority under the current system. If any changes are effected by reorganization, all staff shall be informed of the resulting changes in structure and areas of functional authority.

Recommendation No. 5:

Compile management information which measures program efficiency and effectiveness.

Program Response:

Concur: At the present time, the Family Services Program does not have the technology capable of tracking staff workload, license/certification revocations, and other licensing activity. This information will be available when the CAPS system is fully implemented in September, 1996. The Program will, upon implementation of CAPS, analyze child care data to determine child care licensing/registration program efficiency and effectiveness. The Family Services Program will share the data derived from the CAPS system with regional staff.

In the interim, the Central Office Program Officers will conduct a historical comparison of the results of the 20 percent survey and share the trend data and significant trends with regional staff. This historical comparison will be completed by March 31, 1996. Quality assurance is a primary concern of the Director of the Department of Public Health and Human Services; therefore, new policies regarding quality assurance may be implemented under the new agency.

Recommendation No. 6:

Develop a plan for regular, on-going communication among staff members.

Program Response:

Concur: The Program will develop a plan for regular, on-going communication among staff members regarding child care licensure/registration by March 31, 1996. This plan will include use of technology such as E-Mail and METNET as well as regularly scheduled meetings of child care staff and utilization of supervisors' meetings and the Licensing Standing Committee to foster good communication between Program staff involved with child care. The communication plan will be impacted if child care licensing is transferred to another division within the Department of Public Health and Human Services.

Recommendation No. 7:

A. Adjust inspection enforcement emphasis to adhere to current law regarding unannounced inspections, or

B. Change the law and rules to reflect determination that unannounced inspections are not necessary to ensure the safety and well-being of children in child care centers.

Program Response:

Concur: The Program will take action on both A and B. The Program shall establish a child care work group to assess the feasibility and advisability of conducting unannounced inspections given the resources available. The membership of the work group will include child care staff as well as child care providers. (See reference to child care workgroup under response to Recommendation No. 3A.) The department will act upon the findings of the group if feasible. This action shall be to either continue the required unannounced inspections or seek legislation to eliminate the "unannounced" requirement. The work group will be established by January 31, 1996.

In the interim, the Program shall inform field staff of the statutory requirement and the correlating policy section requiring unannounced visits and will strive to comply with

the statutory requirement. This requirement will be emphasized with the FRS Supervisors at the Licensing Standing Committee scheduled for January, 1996.

Recommendation No. 8:

A. Seek legislation to amend current statute regarding inspection of 20 percent of all registered homes per region, or

B. Modify the current sample selection process to ensure a 20 percent sample is selected in each region.

Program Response:

Concur with B: The Family Services Program currently selects the 20 percent sample by region. The Program will re-examine the current selection process to ensure a 20 percent sample is selected from each region. The 20 percent sample for FY95 was completed August 31, 1995, and comprised of 20 percent per region being inspected. The CAPS system will be utilized to draw the sample by region to assure compliance with the statute once that system is fully implemented.

Recommendation No. 9:

Communicate to staff current standards regarding provisional certificates.

Program Response:

Concur: The current standards regarding provisional certificates will be emphasized with the FRS Supervisors at the Licensing Standing Committee scheduled for January, 1996, as well as at the Supervisors' meeting scheduled for January 16-18, 1996. In addition, the department will provide staff with information on the current standards regarding provisional certificates and the operationalization of these standards by January 16, 1996. Under the CAPS system, provisional licenses will trigger an alert so compliance with the Administrative Rules and standards will be monitored.

III. Conclusion

With the exception of Recommendation No. 1B, the Family Services Program fully concurs with all recommendations contained within the Performance Audit Report. The Program partially concurs with Recommendation No. 1B. The Program asserts the process currently utilized for implementing policies and procedures requires "fine-tuning", not change. The Program contends the untimeliness observed by the auditors occurred because of unusual circumstances and commits to accelerating the decision-making process in the future. The Program also offers the caveat that contained in this document is the response of the **Family**

Services Program and that transfer of the child care licensing and registration program to a different division may affect the implementation of the above-outlined work plan.